

**GOVERNMENT OF PUERTO RICO  
PUERTO RICO PUBLIC SERVICE REGULATORY BOARD  
PUERTO RICO ENERGY BUREAU**

**NEPR**

**Received:**

**Jun 27, 2025**

**3:46 PM**

**IN RE:** Solicitud de Aprobación de Enmienda a Contrato de Compraventa de Energía Renovable entre la Autoridad de Energía Eléctrica y XZERTA-TEC SOLAR I, LLC

**CASE NO.:** NEPR-AP-2021-0002

**SUBJECT:** INFORMATIVE MOTION

**INFORMATIVE MOTION**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

**COMES NOW** Xzerta-Tec Solar I, LLC (“XZERTA”), through its counsel of record, and respectfully submits and prays as follows:

1. On April 4, 2025, Xzerta-Tec Solar submitted an Informative Motion and Request for Authorization, which is currently pending before the Puerto Rico Energy Bureau (PREB).

2. In May 2025, Xzerta-Tec Solar filed an additional Informative Motion in which it clarified and detailed the material events that impacted the design timeline and justified the project delays under the Power Purchase and Operating Agreement (PPOA). It also informed the PREB that Xzerta had executed its ER-2 Grant Agreement with the Puerto Rico Department of Housing.

3. Through this latest Informative Motion, Xzerta seeks to further clarify its request for PREB’s authorization with regard to the Final Notice to Proceed (FNTP) date, and to outline the requirements necessary to achieve that milestone.

4. In our initial motion, we requested that PREB authorize a deadline of June 30, 2025, for the achievement of the FNTP. Since no authorization has been issued as of today’s date, we respectfully request that PREB extend the authorized date to August 31, 2025, or to a later date at its discretion.

5. For the avoidance of doubt, Xzerta is requesting that the Final Notice to Proceed be issued by the Puerto Rico Electric Power Authority (PREPA). However, certain milestones and documents are enumerated in the PPOA as prerequisites for PREPA to issue the FNTP.

6. Although Xzerta is ready, willing, and able to commence construction, several conditions require the issuance of the FNTTP before further progress can be made. Upon reviewing publicly available PPOAs on the Puerto Rico Comptroller’s Contract Registry Portal, we have observed that not all PPOAs impose the same requirements for the issuance of construction authorization. For example, one contract contains the following language:

“.....shall not, without PREPA's written consent, commence construction of the Interconnection Facilities until the Approved Design is achieved; provided, that ..... may, at its risk, order long -lead equipment prior to achievement of the Approved Design.”

In light of this, we respectfully request that the PREB exercise its discretion and authorize PREPA to issue Xzerta its Final Notice to Proceed under the PPOA, based on the following facts:

- The project meets the design criteria required under the PPOA;
- All required permits have been approved by the Office of Permit Management (OGPe);
- Xzerta has secured a grant from the Puerto Rico Department of Housing covering 60% of the project cost;
- The project satisfies the Minimum Technical Requirements (MTRs) per the Interconnection Study;
- An Interconnection Agreement has been executed with LUMA;
- Xzerta is prepared to submit its Operation Guarantee.

Issuance of the FNTTP is a condition precedent for Xzerta to achieve financial closing for the remaining 40% of the project’s funding, to execute final agreements with equipment suppliers, and to issue its own Full Notice to Proceed to the Engineering, Procurement, and Construction (EPC) contractor. It is an industry-standard and commercially reasonable expectation that a project developer cannot issue notices to contractors and subcontractors without first receiving its own notice to proceed. Acting otherwise would create significant business risk and potential liability for Xzerta if delays were to arise in the FNTTP process.

Moreover, financial institutions—especially in the current context of evolving U.S. public policy on renewable energy and upcoming changes to the Inflation Reduction Act—require a Final Notice to Proceed as a prerequisite to financial closing.

7. Once the above is approved, Xzerta reiterates its commitment to immediately proceed with all necessary FNTTP submittals and to begin construction mobilization without delay.

**WHEREFORE**, for the reasons stated above, and provided that all other applicable conditions have been satisfied, the Puerto Rico Energy Bureau is respectfully requested to **AUTHORIZE** PREPA to proceed with the issuance of the corresponding Final Notice to Proceed to Xzerta.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 27th day of June 2025.

**/s María Elisa Martínez Avilés**

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**CERTIFICATE OF SERVICE**

It is hereby certified that, on this same date, I have filed the above motion with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>, and a courtesy copy of the filing was sent to both PREPA and LUMA through its project designees.

In San Juan, Puerto Rico, on this 27<sup>th</sup> day of June 2025.